

No. 5:03-CR-156-1H
No. 5:16-CV-85

Respondent.

The court FINDS the bases for the findings contained in the Modification to the Presentence Report credible and reliable, and notes the parties' agreement thereto, and therefore, the court ADOPTS those findings. The court has calculated the imprisonment range prescribed by the advisory sentencing guidelines to be the same as calculated in the Modification to the Presentence Report. The court has considered that range, as well as other relevant factors set forth in the advisory sentencing guidelines, and those set forth in 18 U.S.C. § 3553(a).

Pursuant to the Sentencing Reform Act of 1984, and in accordance with the Supreme Court decision in United States v. Booker, it is the judgment of the court that the defendant, JAMES DAVID SMITH, is hereby committed to the custody of the Bureau of Prisons to be imprisoned for TIME SERVED.

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of one year. Further, the defendant shall comply with the mandatory and standard conditions that have been approved by the Judicial Conference, herein contained in the judgment, as well as the additional conditions adopted by this court, and shall comply with the following special conditions:

1. The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.
2. The defendant shall consent to a warrantless search by a United States Probation Officer or, at the request of the probation officer, any other law enforcement officer, of the defendant's person and premises, including any vehicle, to determine compliance with the conditions of this judgment.
3. The defendant shall support his dependent(s).

4. The defendant shall comply with DNA testing.

IT IS FURTHER ORDERED that the defendant shall pay to the United States a special assessment of \$100, which shall be due immediately. In deference to defendant's need to support his dependants, no fine is imposed.

Counsel for defendant shall advise defendant of his appeal rights and assist him in filing an appeal if he so desires.

This re-sentencing follows the granting of defendant's § 2255 motion and vacating of his original sentence.

The clerk shall enter judgment in accordance with this order. The Bureau of Prisons shall release defendant forthwith in accordance with this order.

This 22nd day of November 2017.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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